

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

MICHAEL KEVIN DuPONT,  
Petitioner

v.

DAVID NOLAN,  
Respondent

\*\*\*\*\*

\* No. 04-11431-GAO

PETITIONER'S POSITION ON OPTIONS FOR DELETION OF GROUNDS

Now comes the Petitioner, and in relation to the February 7, 2005 hearing on respondents frivolous motion to dismiss and all subsequent related proceedings, states the following; upon careful review of the full record:

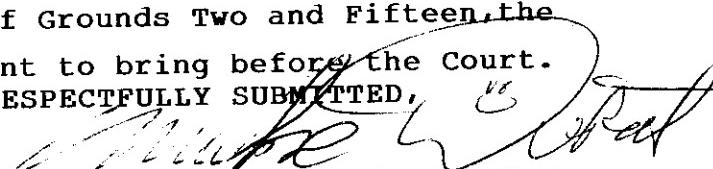
Under no circumstances would Petitioner agree to dismiss Grounds 1,3,4,5,6,7,8,9,10,11,12,13,14,16,17, and 18, so he shall appeal any adverse decision on these grounds based upon Respondent's non-exhaustion and other frivolous defenses.

Petitioner leaves Ground Two up to the discretion of Judge O'toole, where even one sentence in one paragraph of a brief has been held sufficient, COMMONWEALTH v. ANGIULO, 615 NE2d 155, 169 n.17, 415 Mass 507, 523 n.7(1993), the 02-P-20 brief page 49 argument challenging the "ex post facto Clause retrospective application of more onerous new sentencing guidlines(II:390-391), MILLER v. FLORIDA, 482 US 23(1987)" may be found sufficient, but if this Court finds that (with attached Appendix II:390-391) was not enough to present the claim, Petitioner would dismiss and delete Ground Two from the Petition.

Petitioner would also leave it up to Judge O'toole whether or not to dismiss Ground Fifteen, which, although fairly presented in 01-P-1792 brief pages 4-6, 27-30, and ALOFAR on the Double Jeopardy Clause violation, may not have been clearly or fully presented to the Superior Court and only noted in the aggravated c.127, § 129 punishment element above c. 265, § 17 lesser armed robbery offense, so that can be either amended into Ground Six, or it can be dismissed at Judge O'Toole's discretion.

With the exception of Grounds Two and Fifteen, the respondent has no legitimate complaint to bring before the Court.  
February 7, 2005  
Copy served in Court on the  
Atty General's Office

RESPECTFULLY SUBMITTED,

  
Michael DuPont pro se  
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